

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Beverly Blanch,

Plaintiff

v.

Martin O'Malley,<sup>1</sup> Commissioner of Social Security,

Defendant

Case No.: 2:23-cv-01234-JAD-DJA

**Order Granting Motion to Dismiss  
Improper Defendant**

[ECF No. 13]

Commissioner of Social Security Martin O'Malley moves to dismiss the Office of Appellate Operations as a defendant in this Social Security appeal.<sup>2</sup> The Commissioner explains that the plaintiff, proceeding pro se, appears to have erroneously named the Office of Appellate Operations in her amended complaint instead of the Commissioner, who is the proper defendant. Because the Commissioner is the proper defendant, I grant the motion and dismiss the Office of Appellate Operations as a defendant.

**Discussion**

If a claimant is seeking judicial review of a decision by an administrative law judge, administrative appeals judge, or the Appeals Council under 20 C.F.R. § 422.210(a), "the person holding the Office of the Commissioner shall, in his official capacity, be the proper defendant."<sup>3</sup> Here, the Commissioner requests to dismiss the Office of Appellate Operations as a defendant and that the case proceed with the Commissioner as the sole defendant. The Commissioner

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<sup>1</sup> Martin O'Malley is now the Commissioner of Social Security and is substituted as the defendant under Federal Rule of Civil Procedure 25(d).

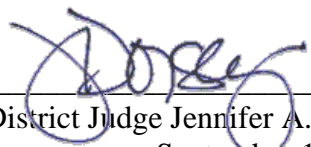
<sup>2</sup> ECF No. 13.

<sup>3</sup> 20 C.F.R. § 422.210(d).

1 explains that “[t]he requested dismissal of the Office of Appellate Operations as a defendant will  
2 not affect Plaintiff’s substantive rights, as the Commissioner is already named as a defendant and  
3 is the only party that can provide Plaintiff with the relief that she seeks.”<sup>4</sup> Plaintiff did not file a  
4 response, and I construe that silence as her consent to granting the motion under Local Rule 7-  
5 2(d). Because Plaintiff has not named the correct defendant, I grant the Commissioner’s motion  
6 to dismiss and terminate the Office of Appellate Operations as a defendant. This case will  
7 proceed against the current Commissioner of Social Security, Martin O’Malley, who is  
8 substituted in place of the former Commissioner, Kilolo Kijakazi.

### 9 Conclusion

10 IT IS THEREFORE ORDERED that the Commissioner’s motion to dismiss the Office of  
11 Appellate Operations as a defendant **[ECF No. 13] is GRANTED.** The Clerk of Court is  
12 directed to terminate the Office of Appellate Operations as a defendant and substitute Social  
13 Security Commissioner Martin O’Malley as the defendant in the place of former Commissioner  
14 Kilolo Kijakazi.

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17 U.S. District Judge Jennifer A. Dorsey  
18 September 11, 2024  
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<sup>4</sup> *Id.* at 3.